

## **IC 12-22-2**

### **Chapter 2. Community Residential Programs**

#### **IC 12-22-2-1**

##### **Planning and administration of programs**

Sec. 1. The division shall plan, develop, and administer programs of community based residential alternatives to placement in state institutions and nursing facilities licensed under IC 16-28 for individuals who are mentally ill.

*As added by P.L.2-1992, SEC.16. Amended by P.L.78-1992, SEC.25; P.L.2-1993, SEC.113.*

#### **IC 12-22-2-2**

##### **Simulation of homelike atmosphere**

Sec. 2. The programs described in section 1 of this chapter must, to the extent feasible, simulate a homelike atmosphere with patterns and conditions of everyday life that are as close as possible to normal.

*As added by P.L.2-1992, SEC.16.*

#### **IC 12-22-2-3**

##### **Contents of program; program setting**

Sec. 3. The programs consist of the following, which are listed in the order of the most restrictive setting to the least restrictive setting:

(1) Sub-acute stabilization programs that serve at least four (4) individuals and not more than fifteen (15) individuals, and if the program serves mentally ill individuals, to provide sub-acute stabilization services to individuals on a short term basis. However, the director may waive the limitation for a sub-acute stabilization program.

(2) Supervised group living programs, which serve at least four (4) individuals and not more than fifteen (15) individuals, if the program serves mentally ill individuals. However, the director may waive the limitation for a supervised group living program that:

(A) was in existence on June 30, 1985; or

(B) provides long term care to mentally ill individuals after June 30, 1985.

The program and the individuals served by the program shall be closely supervised by trained individuals.

(3) Alternative family programs, which serve not more than six (6) individuals who reside with an unrelated householder. The householder must be instructed on the needs of individuals in the program.

(4) Semi-independent living programs, which serve not more than six (6) individuals who require only limited supervision. The supervision must be on a regular basis and take into account emergency needs of the individuals in the program.

(5) Independent living support services for individuals residing independently with the individuals' families or with relatives. The services are temporary or provided intermittently.

(6) Supported living service arrangements to meet the unique needs of individuals in integrated settings.  
*As added by P.L.2-1992, SEC.16. Amended by P.L.78-1992, SEC.26; P.L.62-1993, SEC.5; P.L.6-1995, SEC.12.*

#### **IC 12-22-2-4**

##### **Evaluation prior to program placement; emergency placement**

Sec. 4. (a) Except as provided in subsection (b), an individual may not be placed in a program described in section 3(1), 3(2), or 3(3) of this chapter until after an evaluation approved by the division indicates the following:

- (1) Placement in a particular program of services is appropriate.
- (2) Treatment and crisis intervention services needed by a mentally ill individual are available.

(b) Emergency placements of not more than sixty (60) days may be made without an evaluation.

*As added by P.L.2-1992, SEC.16.*

#### **IC 12-22-2-5**

##### **Least restrictive placement**

Sec. 5. To the extent that programs described in section 3 of this chapter are available and meet an individual's needs, an individual should be placed in a program that is the least restrictive.

*As added by P.L.2-1992, SEC.16.*

#### **IC 12-22-2-6**

##### **Continuation of placement in child caring institution**

Sec. 6. The division may continue the placement of a mentally ill individual in a child caring institution licensed under IC 12-17.4, a county home regulated by IC 12-30-3, or a health facility licensed under IC 16-28 if:

- (1) the individual was placed in the institution, home, or facility before July 1, 1985; and
- (2) the placement continues to be appropriate for the individual, as determined by the division.

*As added by P.L.2-1992, SEC.16. Amended by P.L.81-1992, SEC.32; P.L.2-1993, SEC.114.*

#### **IC 12-22-2-7**

##### **Contracts to provide programs**

Sec. 7. The division may contract with any of the following to provide the programs described in section 3 of this chapter:

- (1) Community mental health centers.
- (2) Corporations.
- (3) Individuals.
- (4) Managed care providers.

*As added by P.L.2-1992, SEC.16. Amended by P.L.6-1995, SEC.13.*

#### **IC 12-22-2-8**

##### **Individuals discharged from state institutions or placed on**

### **outpatient status; placement preference**

Sec. 8. (a) If the superintendent of a state institution requests, the division shall determine if an individual who is being discharged from the state institution or placed on outpatient status by the state institution should be given preference for placement in a community residential program described in section 3 of this chapter.

(b) A determination of the division under subsection (a) is binding upon an individual who enters into a contract under section 7 of this chapter.

*As added by P.L.2-1992, SEC.16.*

### **IC 12-22-2-9**

#### **Liability for cost of services; rules**

Sec. 9. (a) Except as specified by the terms of the Medicaid program:

- (1) an individual who receives services under this chapter; and
- (2) the parents of the individual if the individual is less than eighteen (18) years of age;

are liable for the cost for the services.

(b) The cost shall be established under rules adopted by the director under IC 4-22-2.

*As added by P.L.2-1992, SEC.16.*

### **IC 12-22-2-10**

#### **Medicaid eligibility; transferees to programs**

Sec. 10. An individual who is:

- (1) mentally ill; and
- (2) eligible under the Medicaid program;

remains eligible for Medicaid if transferred to a community residential program described in section 3(1), 3(2), 3(3), or 3(4) of this chapter.

*As added by P.L.2-1992, SEC.16. Amended by P.L.62-1993, SEC.6.*

### **IC 12-22-2-11**

#### **Operation by unlicensed entity; investigations; penalties**

Sec. 11. (a) An entity may not:

- (1) operate a program described in IC 12-22-3; or
- (2) hold itself out as operating;

(A) a program described in IC 12-22-3; or

(B) a group home for individuals who are mentally ill;

unless the entity is licensed or certified by the division of mental health and addiction.

(b) The division of mental health and addiction shall investigate a report of:

- (1) an unlicensed facility housing a community residential program described in section 3(1), 3(2), and 3(3) of this chapter;
- (2) an uncertified operator of a community residential program described in section 3(1), 3(2), and 3(3) of this chapter; or
- (3) a licensed or certified entity's noncompliance with this article;

and report the division's findings to the attorney general.

(c) The attorney general may do the following:

- (1) Seek the issuance of a search warrant to assist in an

investigation under this section.

(2) File an action for injunctive relief to stop the operation of a facility described in subsection (b) if there is reasonable cause to believe that:

(A) the facility or the operator of a community residential program described in subsection (b) is operating without a required license or certification; or

(B) a licensed or certified entity's actions or omissions create an immediate danger of serious bodily injury to a mentally ill individual or an imminent danger to the health of a mentally ill individual.

(3) Seek in a civil action a civil penalty of not more than one hundred dollars (\$100) a day for each day a facility is operating:

(A) without a license or certification required by law; or

(B) with a license or certification required under this chapter, but is not in compliance with this article, IC 12-21-2-3, or rules adopted under this article or IC 12-21-2-3.

(d) The division of mental health and addiction may provide for the removal of mentally ill individuals from facilities for the mentally ill described in subsection (c).

(e) There must be an opportunity for an informal meeting with the division of mental health and addiction after injunctive relief is ordered under this section.

(f) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).

*As added by P.L.111-1997, SEC.4. Amended by P.L.215-2001, SEC.61.*